

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Ronald Wojtas	:	
-vs-	:	15-0295
Commonwealth Edison Company	:	
	:	
Complaint as to billing/charges in	:	
Belvidere, Illinois.	:	

PROPOSED ORDER

By the Commission:

I. Procedural History

On April 20, 2015, Ronald Wojtas ("Complainant") filed a formal Complaint against Commonwealth Edison Company ("ComEd" or "Respondent") with the Illinois Commerce Commission ("Commission") alleging that he should not be responsible for a meter tampering charge, rebilling charges and late charges added to his account for the electric service at 8392 Huber Road, Belvidere, Illinois.

Pursuant to notice given in accordance with the law and the rules of the Commission, this matter was set for status hearings on May 19, 2015 and August 12, 2015, before a duly authorized Administrative Law Judge ("ALJ") of the Commission at its offices in Chicago, Illinois. Complainant appeared pro se and the Respondent was represented by counsel. An evidentiary hearing was held on October 13, 2015. Mr. Wojtas testified on his own behalf. Respondent presented three witnesses: Grant Flodin, a meter reader with ComEd, Robert Tolmie, a senior energy technician with ComEd and Alexis Bullard, a customer relations analyst with ComEd. At the conclusion of the hearing on October 13, 2015, the record was marked "Heard and Taken."

II. Evidence Presented

a. Complainant Position

Mr. Wojtas testified that he owns a farm house located in Belvidere, Illinois. He stated that the property is vacant and that he visits it periodically. The Complainant claimed that he received a letter from ComEd regarding this property dated October 15, 2014, stating that he had a credit of \$1,596.04. He called ComEd and told a representative that this was not correct. On October 22, 2014, he received a letter from ComEd indicating that no payment was due. Mr. Wojtas then received a letter from ComEd stating that during an investigation a representative found that the meter had

been tampered with. The Complainant testified that he did not tamper with the meter and that he had no knowledge of anyone tampering with the meter on his behalf. ComEd added a tampering charge, rebilled his account and added late charges all of which he would like removed.

b. Respondent Position

ComEd's first witness was Grant Flodin, a meter reader, who has held this position since January of 2014. He has a daily route and goes from house to house reading the electric meters. The Complainant's property is on his regular route. On August 20, 2014, Mr. Flodin went to Mr. Wojtas' property to read the meter, where he found a small stick jammed into the side or behind the electric meter. He took two photographs of the meter which were admitted into the record as ComEd Group Ex.1. The first photograph shows the small stick jammed behind the meter. The second photograph shows the meter has been slightly popped out from the fitting. Mr. Flodin reported this as tampering.

On cross examination, Mr. Flodin testified that he did not remember seeing the cover of the meter at the property when he discovered the tampering. He also testified that prior to this occasion, he never experienced any problems with reading the meter at Complainant's property.

ComEd's second witness was Robert Tolmie, a senior energy technician. He has held this position for over ten years. He has many job duties, which include investigating meter tampering complaints. Mr. Tolmie testified that on August 20, 2014, he was dispatched to the Complainant's property pursuant to a Revenue Protection Order stating that the meter reader had discovered a possible tampering issue with the meter. When he arrived at the property, he found that the meter was partially pulled out of the fitting, so the load side bayonets were not touching load side jaws. Mr. Tolmie stated that the customer still had full power, but the meter was not recording the usage. He exchanged the meter and installed a lock on the new meter. Mr. Tolmie placed a green tag on the old meter, so that the system meter department would check for tampering. Mr. Tolmie sponsored ComEd Ex. No. 2, an Individual Order Completion Report, which is the report he completed after investigating the meter tampering at the Complainant's residence. According to Mr. Tolmie, this was clearly an instance of meter tampering.

ComEd's third witness was Alexis Bullard, a senior business analyst, who receives customer complaints and analyzes customer accounts regarding billing and meter information. As part of her job duties, she reviewed the account of the Complainant. She sponsored ComEd Exhibit No. 3, which was the account activity statement for 8392 Huber Road in Belvidere. Ms. Bullard testified that the account history is dated from October 9, 2013 through September 25, 2015. On October 29, 2014, ComEd added a revenue protection tampering fee of \$488.61 to the Complainant's account. She stated that this charge is assessed after meter tampering is confirmed. Ms. Ballard also testified that the account of the Complainant was rebilled because of the meter tampering. The rebilling covered the period of September 25, 2012 through October 23, 2014. She testified that ComEd is authorized by the Commission to back bill two years based on an instance of

tampering. Ms. Bullard testified that when the new meter was installed, it was set to zero. An actual reading was performed on September 24, 2014 and the average daily use was calculated to be 16 kilowatts. This was the figure used by ComEd to rebill the Complainant's account.

Ms. Bullard also sponsored ComEd Exhibit No. 4, which was the meter reading history for the Complainant's property. She testified that based on her review of the account, the line history and the meter reading history, there were no errors in the billing or rebilling of Mr. Wojtas' account. Ms. Bullard also testified that based on her review of the records, the Complainant benefitted from the tampering that occurred at his property. She further stated that he was under billed because the meter was not registering the correct usage. According to Ms. Bullard, the balance owed on the account at the time of the hearing was \$769.98 and the last payment made was on September 21, 2015.

III. Commission Analysis and Conclusion

The Commission has jurisdiction over both the Complainant and the Respondent. The Complainant's residence is in Belvidere, Illinois and he is a customer of ComEd. Respondent is engaged in providing electric service in the State of Illinois and is a public utility under Section 3-105 of the Public Utilities Act. 220 ILCS 5/3-105. The Commission notes that although Part 280 of the Illinois Administrative Code (83 Ill. Adm. Code 280) was amended in 2014, this Order only applies the prior version, since all of the events subject to this Complaint occurred before the amendment was enacted. The Complainant is disputing the tampering charges and the rebilling of his account by ComEd.

Pursuant to the Illinois Administrative Code, the Respondent has the burden of proof to show by a preponderance of the evidence that tampering occurred, that the customer benefitted from it and that the rebilling is reasonable. 83 Ill. Adm. Code 280.100(c)(2). ComEd witness, Mr. Flodin, testified that he found a small stick jammed into the side or back of the meter. He took pictures of the compromised meter. See ComEd Group Ex. 1. Mr. Tolmie, ComEd's second witness, stated that after his investigation, he determined that meter tampering had occurred. ComEd witness, Ms. Bullard, testified that the Complainant did benefit from the tampering because when ComEd installed a new meter and recalculated Complainant's bills, the recalculation showed that Mr. Wojtas was being under billed.

The Commission notes ComEd's tampering evidence but questions ComEd rebilling the Complainant for the period of September 25, 2012 through October 23, 2014. Section 280.100(c)(1), states that the customer shall be responsible for all service usage and that the utility may bill the customer for all service usage during the time period in which tampering occurs. 83 Ill. Adm. Code 280.100(c)(1). Mr. Flodin testified that this residence is on his regular route and that he has never had a problem with reading the meter prior to discovering the tampering in August of 2014. According to ComEd Ex. 4, the meter at the Complainant's residence was last read on June 25, 2014, prior to any tampering being discovered. There was no evidence presented in this docket to show that tampering occurred for the entire period of time that ComEd rebilled the Complainant.

Based on the evidence, the Commission finds that there is clear evidence that the meter at the Complainant's residence was tampered with and, while it was a small amount, Mr. Wojtas did benefit from the tampering. The Commission finds that the Complainant is responsible for the tampering charges that were assessed by ComEd. The records indicate that there was no evidence of tampering when the meter was read on June 25, 2014 or anytime prior. ComEd is only authorized to rebill the Complainant's account for the time period of June 25, 2014 through August 24, 2014 and should remove any rebilling charges outside of this time period. Therefore, the Complaint filed by Ronald Wojtas is granted in part and denied in part.

IV. Findings and Ordering Paragraphs

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) Respondent, Commonwealth Edison Company is engaged in providing electric service in the State of Illinois and as such, is a "public utility" within the meaning of the Illinois Public Utilities Act;
- (2) the Commission has jurisdiction over the parties and the subject matter of this proceeding;
- (3) the findings of facts and the conclusions of law set forth in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact and law;
- (4) Complainant, Ronald Wojtas, alleges that the Respondent added a meter tampering charge to his account, rebilled his account and added late charges to his electric bills for his electric service in Belvidere, Illinois;
- (5) the Complainant failed to sustain his burden of proof that he was not responsible for or did not benefit from the tampering of the meter at his property and, therefore he is responsible for the tampering charges issued to his account by ComEd;
- (6) the Respondent failed to prove by a preponderance of the evidence that the Complainant was properly rebilled due to the tampering and is only authorized to recalculate Complainant's account for the period of June 25, 2014 to August 20, 2014; and
- (7) in accordance with the provisions of Finding (5) and (6) above, this Complaint is denied in part and granted in part.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the Complaint filed by Ronald Wojtas on April 20, 2015, against Commonwealth Edison Company is hereby, denied in part and granted in part.

IT IS FURTHER ORDERED that the Complainant, Ronald Wojtas is responsible for the tampering charges added to his bill by ComEd.

IT IS FURTHER ORDERED that ComEd shall only recalculate Complainant's account for the time period of June 25, 2014 to August 20, 2014 and shall remove any rebilling charges from Complainant's account prior to June 25, 2014.

IT IS FURTHER ORDERED that all motions, petitions and objections made in this proceeding which are not disposed of, be and are hereby disposed of consistent with the ultimate conclusions contained herein.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final, it is not subject to the Administrative Review Law.

DATED:

BRIEFS ON EXCEPTIONS DUE:

REPLIES TO EXCEPTIONS DUE:

January 26, 2016

February 9, 2016

February 16, 2016

Glennon P. Dolan,
Administrative Law Judge